

**SUNNYSIDE ORCHARDS NO. 3, BLOCK 12, LOT 32, AP (BLUE JAY INVESTMENTS, LLC)
FOUR-LOT MINOR SUBDIVISION AND ONE VARIANCE REQUEST**

STAFF REPORT FOR PLANNING BOARD

CASE PLANNER:

Benjamin H. Howell

BH

REVIEWED/

APPROVED BY:

Renee Van Hoven

W

**PUBLIC HEARINGS/
MEETINGS:**

RCPB Public Hearing:

March 1, 2006

Deadline for PB recommendation to BCC:

March 15, 2006

BCC Public Meeting:

9:00 a.m. April 4, 2006

Deadline for BCC action (35 working days):

April 19, 2006

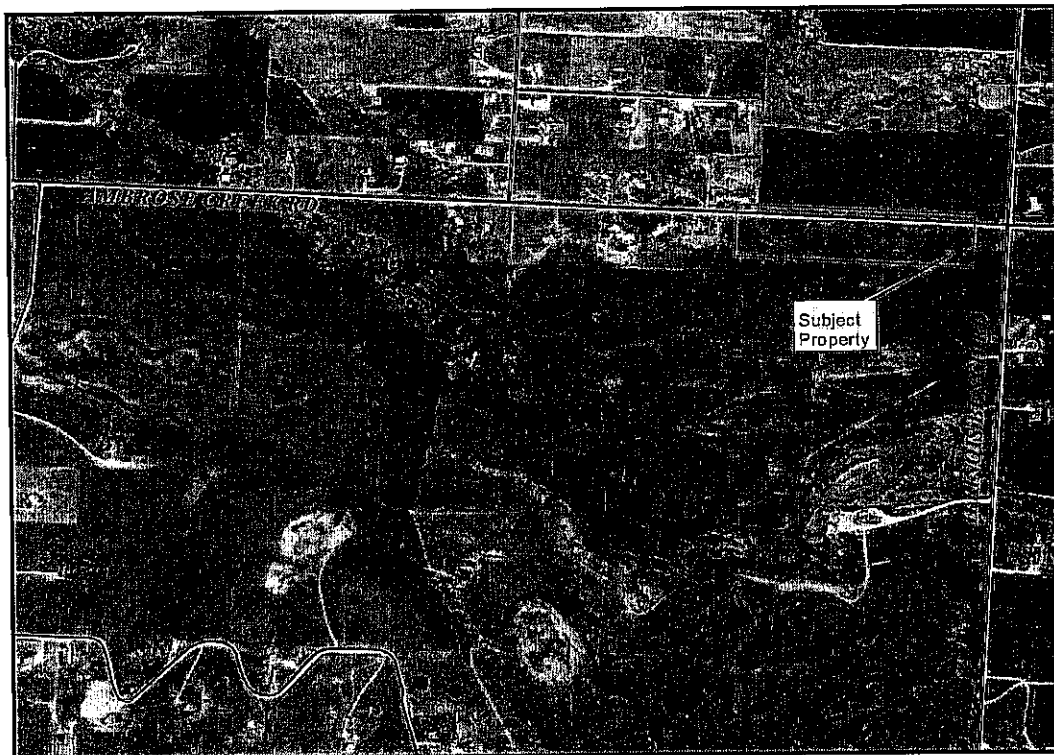
APPLICANT/OWNER:

Blue Jay Investments, LLC
3431 Eastside Highway
Stevensville, MT 59870

REPRESENTATIVE:

Kammerer Environmental Consulting, LLC, 777-5452
PO Box 134
Stevensville, MT 59870

LOCATION OF REQUEST: The property is located northeast of Stevensville off Ambrose Creek Road and Illinois Bench Road. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County Planning Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

Sunnyside Orchards No. 3, Block 12, Lot 32, AP located in the NW ¼ of Section 8 and the NE ¼ of Section 7, T9N, R19W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was determined complete on February 14, 2006. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 and A-2 of the staff report.

LEGAL NOTIFICATION:

A legal advertisement was published in the Ravalli Republic on Tuesday, February 14, 2006. Notice of the project was posted on the property and adjacent property owners were notified by certified mail postmarked February 14, 2006. One public comment is in the application packet.

**DEVELOPMENT
PATTERN:**

Subject property	Agriculture and Vacant Pasture
North	Agriculture
South	Agriculture
East	Residential
West	Residential

RAVALLI COUNTY PLANNING BOARD

MARCH 1, 2006

SUNNYSIDE ORCHARDS NO. 3 BLOCK 12, LOT 32, AP FOUR-LOT MINOR SUBDIVISION AND ONE VARIANCE REQUEST

RECOMMENDED MOTIONS

1. That the variance request from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations, to allow two common accesses to serve the lots instead of an internal road, be **denied**, based on the findings of fact and conclusions of law in the staff report.
2. That the Sunnyside Orchards No. 3, Block 12, Lot 32, AP Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

Limitation of Access onto a County Road. A "no ingress/egress" restriction is located along the Ambrose Creek Road and Illinois Bench Road frontages of the subdivision, which precludes vehicular access onto these County-maintained roads, excepting the approved approach for the internal subdivision road. This limitation of access may be lifted or amended with approval of the County. *(Effects on Local Services)*

Notification of Road Maintenance Agreement. Ravalli County, the State of Montana, or any other governmental entity does not maintain the internal subdivision road and therefore does not assume any liability for improper maintenance or the lack thereof. A Road Maintenance Agreement for this road was filed with this subdivision and outlines what parties are responsible for maintenance and under what conditions. *(Effects on Local Services - Roads)*

Notification of No-Build/Alteration Zones and No-Build Zone. Within this subdivision there are no-build/alteration zones on Lot 32A, as shown on the plat, to restrict building on slopes greater than 25%. No new structure, with the exception of fences, may be constructed in this area. There is also a no-build zone located on the southern portion of the property, below the bench, as shown on the plat. *(Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety)*

Notification of Proximity to Ambrose Creek. This subdivision is located in close proximity to Ambrose Creek. There is an inherent hazard associated with creeks, due to potential soil erosion, flooding and movement of the creek channel. *(Effects on Public Health and Safety)*

Notification of Proximity to Unnamed Drainage. An unnamed intermittent creek is located to the south of this subdivision. There is an inherent hazard associated with creeks, due to potential soil erosion, flooding and movement of the creek channel. It is recommended that property owners of this subdivision obtain flood insurance. *(Effects on Public Health and Safety)*

Notification of Severe Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as severe for roads and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the severe soils are included as exhibits to this document. (The applicant shall include the exhibits as attachments) *(Effects on Public Health and Safety)*

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. (See FWP letter in Application packet for required provisions.) *(Effects on Agriculture, Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety)*

Waiver of Protest to Creation of RSID/SID. Owners and their successors in interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to creating and/or improving a community water or wastewater treatment system and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Three Mile Fire District has adopted the Uniform Fire Code (UFC), which requires lot owners to post County-issued addresses at the intersection of the driveway leading to the primary residence and the accessing road as soon as construction on the residence begins. *(Effects on Public Health and Safety)*

Access Requirements for Lots within this Subdivision. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6", and an all weather surface that can accommodate the weight of a fire truck to meet requirements of the UFC. Please contact the Three Mile Rural Fire District for further information on the requirements of the Three Mile Rural Fire District and/or the UFC. *(Effects on Local Services)*

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. *(Effects on Natural Environment)*

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. *(Effects on Public Health & Safety)*

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). *(Effects on Natural Environment)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. *(Effects on Public Health and Safety)*

Amendment. The covenants filed with the final plat shall state that written Governing Body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdivider shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. *(Effects on Local Services)*
4. The final plat shall show a no ingress/egress zone along the Ambrose Creek Road and Illinois Bench Road frontages of the subdivision, excepting the approved approach for the internal subdivision road. *(Effects on Local Services and Variance)*
5. The applicant shall provide for an additional five feet of public road and utility easement along the Illinois Bench Road and Ambrose Creek Road frontages of the subdivision on the final plat. *(Effects on Local Services)*
6. The applicant shall install a stop sign on the internal subdivision road at the intersection with Ambrose Creek Road or Illinois Bench Road prior to final plat approval. *(Effects on Local Services and Public Health and Safety)*
7. The Road Maintenance Agreement for the internal subdivision road shall include the maintenance of storm water drainage facilities. *(Effects on Local Services)*
8. The applicant shall meet the water supply requirements for the Three Mile Fire District, which is a 1,000-gallon per minute water supply or a 2,500 gallon per lot water storage. Alternatively, the applicant can contribute \$500 per lot and provide a letter from the Three Mile Fire District that the contribution has been made prior to final plat approval. *(Effects on Local Services & Public Health and Safety)*
9. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Public Health and Safety)*
10. The applicant shall provide evidence that \$250 per lot has been contributed to the Lone Rock School District and \$100 per lot has been contributed to the Stevensville School Districts prior to final plat approval. *(Effects on Local Services)*
11. The no-build/alteration zones on Lot 32A, as shown on the preliminary plat, and the no-build zone on the southern portion of the property below the bench shall be shown on the final plat. *(Effects on the Natural Environment and Public Health and Safety)*

INTRODUCTION

The Sunnyside Orchards No. 3, Block 12, Lot 32, AP Minor Subdivision is a four-lot subdivision of 10.00 acres located northeast of Stevensville. The portion of the property along Ambrose Creek Road is relatively level and then slopes down to the south. There are no-build/alteration zones on areas with slopes of 25% or greater. It appears a portion of the property has been used for agriculture in the past.

The applicant is requesting a variance from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations, to allow the lots to be accessed by two common accesses off Ambrose Creek Road instead of an internal road.

Staff recommends denial of the variance request and conditional approval of the subdivision proposal.

SUBDIVISION REPORT

COMPLIANCE WITH PRIMARY SUBDIVISION REVIEW CRITERIA

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed minor subdivision on 10.00 acres will result in four lots that range in size from 1.75 to 4.32 acres. The property is located approximately five miles northeast of the Town of Stevensville.
2. There are soils classified as Prime Farmland and Farmland of Statewide Importance covering a large portion of Lots 32A and 32D, and portions of Lots 32B and 32C.
3. It appears that a portion of the property has been used for agriculture in the past.
4. The property is located in an area where there is a mix of agricultural and residential uses. To mitigate impacts on nearby agricultural practices, a notification of agricultural operations shall be filed with the final plat and the covenants shall include a provision requiring owners to control domestic pets. (Conditions 1 & 2 – in Living with Wildlife section)

Conclusions of Law:

1. The creation of these lots will take a small amount of soils classified as Prime Farmland and Farmland of Statewide Importance out of production.
2. With the recommended mitigating condition, impacts of this subdivision on surrounding agricultural practices will be minimized.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

1. There are no water rights associated with this property.
2. There are no ditches or streams traversing this property.

Conclusion of Law:

There are no known impacts to agricultural water user facilities.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

1. Ambrose Creek Road and Illinois Bench Road are County-maintained roads that do not meet County Standards. A requirement of final plat approval is that the developer pays the pro-rated share of the cost to improve the portion of these roads providing access to the subdivision.
2. To mitigate impacts on the local road system, a no ingress/egress zone shall be placed along the Ambrose Creek Road and Illinois Bench Road frontages of the proposed subdivision, excepting the approved approach for the internal road and a notification of the no ingress/egress zone shall be included in the Notifications Document filed with the final plat. (Conditions 1 and 4)
3. Access for Lots 1 through 4 is proposed via two common accesses off Ambrose Creek Road. The applicant is requesting a variance from building an internal road and staff is recommending denial (Variance).
4. To mitigate impacts on local services, the applicant shall provide for an additional five feet of public road and utility easement along the Illinois Bench Road and Ambrose Creek Road frontages of the subdivision. (Condition 5)
5. With denial of the variance request, the developer is required to construct an internal road that meets County Standards. A Road Approach Permit approved by the Road and Bridge Department for the internal road, road plans and grading and drainage plans approved by the County's Professional Engineering Advisor, a road certification certified by a professional engineer for the internal road, and a road maintenance agreement will be required prior to final plat approval. To mitigate impacts on local services, notification of the road maintenance

agreement shall be filed with the Notifications Document and the road maintenance agreement shall include stormwater drainage. (Conditions 1 & 7)

6. With the denial of the variance request, the applicant is required to submit a road name petition for the internal subdivision road. A stop sign and road name sign at the corner of Ambrose Creek Road or Illinois Bench Road and the internal subdivision road shall be installed prior to final plat approval. (Condition 6)
7. To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, an RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)
8. Individual wells and wastewater treatment systems are proposed for lots within this subdivision.
9. Bitterroot Disposal provides service to this site.
10. The Lone Rock and Stevensville School Districts were notified of the subdivision proposal. The developer is proposing to contribute \$250 per lot to the Lone Rock School District and \$100 per lot to the Stevensville School District. A condition that the developer provides evidence of this contribution to the school districts is required prior to final plat approval. (Condition 11)
11. The Three Mile Rural Fire District has provided the County with their general policy recommendations (Exhibit A-1). The conditions that address the Fire District's recommendations will mitigate impacts on local services and public health and safety. (Conditions 2 & 8)
12. The Ravalli County Sheriff's Office provides law enforcement services to this area.
13. Public Services are adequate for this subdivision.

Conclusion of Law:

With the mitigating conditions of approval, requirements of final plat approval, and denial of the Variance, impacts of the subdivision on local services will be minimized.

CRITERION 4: EFFECTS ON THE NATURAL ENVIRONMENT

Findings of Fact:

1. The property is located approximately 530 feet south of Ambrose Creek, which drains an area of 15 square miles or more. The property is separated from Ambrose Creek by approximately six vertical feet and Ambrose Creek Road, so a floodplain analysis waiver was granted by the Ravalli County Floodplain Administrator. (Application)
2. In the waiver, the Floodplain Administrator states that on a site visit she saw a small, unnamed intermittent creek to the south of the property, and stated that the creek's floodplain was evident on the property below the bench. She recommended that all structures and utilities be located on the bench above the floodplain of the small creek. To mitigate impacts on the natural environment, a no-build zone shall be placed on the property below the bench and notification of the no-build zone, proximity to Ambrose Creek, and proximity to the unnamed drainage shall be included in the Notifications Document. Lot 32A has areas of steep slopes (>25%) and with the mitigating conditions of approval, impacts to the natural environment will be minimized. (Conditions 1, 11 & 12)
3. Individual wells and wastewater treatment systems are proposed to serve lots within the subdivision and adequate information has been provided to the Environmental Health Department for local subdivision review to occur. A Certificate of Subdivision Plat Approval from Montana DEQ has been provided and is required to be submitted with the final plat. (Application)
4. To mitigate air pollution resulting from home heating emissions, the protective covenants filed with the final plat shall state that the primary heat source for any newly constructed residences must be at least 75% efficient. (Condition 2)
5. A noxious weed and vegetation control plan is required to be filed with the final plat for ground disturbance associated with a subdivision. According to MCA 7-22-2152, any person

proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district, shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, *such as* road construction, the plan shall be submitted to the weed board for approval from the board. To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)

Conclusion of Law:

With the mitigating conditions and the requirements of final plat approval, impacts from this subdivision on the natural environment will be minimized.

CRITERION 5: EFFECTS ON WILDLIFE AND WILDLIFE HABITAT

Findings of Fact:

1. The property is not located within the FWP-identified big game winter range and no species of special concern have been identified in the vicinity of the subdivision.
2. The FWP comment letter recommends including Living with Wildlife provisions in the covenants for this subdivision. (Application & Condition 2)

Conclusion of Law:

With the condition of approval, impacts of the proposed subdivision on wildlife will be mitigated.

CRITERION 6: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. The applicant is proposing two common accesses instead of an internal road. (Variance) The Road Department and Board of County Commissioners have generally preferred fewer accesses onto County-maintained roads.
2. The conditions that address the Fire District's recommendations will mitigate impacts on local services and public health and safety. (Conditions 2 & 8)
3. The preliminary plat shows that Lot 32A has steep slopes (greater than 25%), which are required to be identified as no build/alteration zones. An unnamed creek is located to the south of the property and a no-build zone shall be placed on the southern portion of the property below the bench. In order to mitigate impacts on public health and safety, notification of the no-build and no-build/alteration zones shall be included in the Notifications Document and the no-build and no-build/alteration zones placed on the final plat. (Conditions 1 & 11)
4. The preliminary plat and soils map indicate that portions of this subdivision may have soils rated as severe for building and road construction. To educate property owners and to mitigate potential impacts of this subdivision on public health and safety, a notification of the potential for severe soils shall be included in the Notifications Document filed with the final plat. (Condition 1)
5. Lots will be served by individual wells and wastewater treatment systems. (Natural Environment)
6. To mitigate the general impacts of this subdivision on public health and safety, the subdivider shall apply for County-issued addresses for each lot within this subdivision. A provision shall be included in the protective covenants requiring property owners to post County-issued addresses at their driveways to enhance provision of emergency services. (Conditions 2 & 9)
7. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision requiring full cut-off lighting with the exception of flag poles. (Condition 2)
8. There is a prevalence of radon in the County and to mitigate impacts on public health and safety, the covenants for this property shall include a statement regarding radon exposure. (Condition 2)
9. According to the subdivision application, there are no other known hazards that are on or adjacent to the property that may significantly affect public health and safety.

Conclusion of Law:

The mitigating conditions and requirements of final plat approval address potential impacts of this subdivision on public health and safety.

COMPLIANCE WITH:

1) THE SURVEY REQUIREMENTS PROVIDED FOR IN PART 4 OF M.C.A. 76-3.

Finding of Fact:

The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

This proposal meets the survey requirements or conditions have been required to bring the proposal into compliance.

2) THE LOCAL SUBDIVISION REGULATIONS PROVIDED FOR IN PART 5 OF M.C.A. 76-3.

Finding of Fact:

Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

The developer has submitted a plan which complies with the requirements of local subdivision regulations or conditions have been required that will bring the plan into compliance.

3) THE LOCAL SUBDIVISION REVIEW PROCEDURE PROVIDED FOR IN THE RAVALLI COUNTY SUBDIVISION REGULATIONS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in the Ravalli County Subdivision Regulations.
2. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such decision. The petition shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider; a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the unincorporated area of the county that can show a likelihood of material injury to the landowner's property or its value; a first class municipality if the subdivision is within three miles of its limits, a second class municipality if a subdivision is within two miles of its limits, a third class municipality or town if the subdivision is within one mile of its limits. An aggrieved party means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

Conclusion of Law:

This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

CONSISTENCY WITH EXISTING ZONING AND COVENANTS

Findings of Fact:

1. The application states the property is not located within a zoning district.
2. There are no existing covenants on the property.

Conclusion of Law:

Zoning and covenants do not apply to this property.

PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:

1. The plat indicates utility easements are located along Ambrose Creek Road and Illinois Bench Road.
2. According to the application, the proposed subdivision will be served by Ravalli Electric Cooperative and Qwest Telephone. Utility companies have been notified of the proposed subdivision and no comments have been received to date.
3. Utility easements are required to be shown on the final plat.

Conclusion of Law:

Utility services are available to the subdivision.

PROVISION OF LEGAL AND PHYSICAL ACCESS

Finding of Fact:

Physical and legal access for this subdivision is proposed via Eastside Highway and Ambrose Creek Road. With the denial of the variance request, the lots will access off an internal road.
(Variance & Local Services)

Conclusion of Law:

With the conditions of approval, action on the variance request and requirements of final plat approval, the proposal meets physical and legal access requirements.

VARIANCE REPORT

VARIANCE REQUEST

The applicant has requested a variance from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations to allow the lots to access directly off Ambrose Creek Road instead of an internal subdivision road.

Compliance with Variance Review Criteria

A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.

Findings of Fact:

1. Section 5-2-2(c)(6) requires lots within this subdivision to access off an internal road.
2. The property is located at the corner of Ambrose Creek Road and Illinois Bench Road, and the proposed common access to Lots 32C and 32D would be approximately 250 feet from the intersection with Illinois Bench Road.
3. In an email dated February 21, 2006, the Road Department recommended denial of this variance request, based on the fact that Ambrose Creek Road is classified as a minor collector roadway and the access management section of the adopted Access Encroachment Policy for the Ravalli County Road and Bridge Department. (Exhibit A-2)
4. With the construction of an internal road, the number of proposed accesses onto Ambrose Creek Road will be reduced to one.

Conclusion of Law:

There will be negative impacts to public health and safety by granting this variance due to the increase in accesses onto Ambrose Creek Road and the vicinity of the accesses to the intersection of Ambrose Creek Road and Illinois Bench Road.

B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Finding of Fact:

The property is accessed by two County-maintained roads. An internal road could be constructed off either road.

Conclusion of Law:

The conditions upon which the variance is requested are not unique to the subject property.

C. Physical conditions, such as topography or parcel shape, prevents the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).

Finding of Fact:

There are slopes of 25% or greater and the parcel is rectangular in shape.

Conclusion of Law:

Physical and topographic conditions make it more difficult for the applicant to meet lot access standards, but it is still possible to design an internal road.

D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.

Findings of Fact:

1. There is no zoning on this property.
2. Relevant countywide provisions in the Ravalli County Growth Policy are outlined below. Provisions of the Ravalli County Growth Policy are followed by an analysis (bulleted points) of

the variance request against these provisions.

Countywide Goal 4: Provide necessary infrastructure and public services to accommodate population growth and new development without undue impacts on the quality, quantity and cost of service to existing residents.

Countywide Policy 4.1: Encourage development that will minimize or avoid additional costs to existing taxpayers.

- Granting this variance would allow the subdivision to have two accesses instead of one. The property is also located at the intersection of Ambrose Creek Road and Illinois Bench Road, with the common access to Lots 32C and 32D proposed approximately 250 feet from Illinois Bench Road. Increased numbers of accesses on Ambrose Creek Road may result in more traffic accidents. There may be costs associated with the traffic accidents through providing emergency services.

Countywide Policy 4.2: Consider the cumulative impacts of development.

- More accesses onto Ambrose Creek Road will add to traffic and may create negative impacts to public health and safety.

Countywide Policy 4.5: Developers will be responsible for providing the infrastructure necessary within the development such as community water, sewage treatment and roads. A system of "nexus and proportionality" will govern external infrastructure costs attributable to the developer.

- The developer is responsible for providing an internal road. An internal road would create fewer impacts to the road system, which would contribute to the maintenance of the existing infrastructure.

Conclusions of Law:

1. Zoning does not apply to this property.
2. The Growth Policy does not support the granting of this variance.

E. The variance will not cause a substantial increase in public costs.

Finding of Fact:

There may be costs associated with providing emergency services for traffic accidents resulting from increased accesses onto Ambrose Creek Road in close vicinity to Illinois Bench Road.

Conclusion of Law:

Approval of the variance request will affect public costs.

EXHIBIT A-1

RECEIVED

JUN 16 2004

THREE MILE FIRE DISTRICT
1064 THREE MILE CR. RD.
STEVENSVILLE, MT 59870
ATTN: CHIEF GIESE

June 16, 2004

IC C-4 05-934

RAVALLI COUNTY PLANNING OFFICE
215 4th Street, Suite F
HAMILTON, MT 59840

The Three Mile Fire District has established the following requirements for new proposed subdivisions within this district. The requirements were established with consideration for life safety of the residence of the district as well as the Volunteers who are called upon to protect the district and to mitigate harm to the public health and environment.

When establishing the requirements, emphasis was given to the Uniform Fire Code, Articles 9 and 10, and Appendix III-A, The Ravalli County Subdivision Regulations, The Ravalli County Road Department standards and the 1995 Fire Protection Guidelines for Wildland Residential Interface Development. These Publications and Articles establish rules for dealing with fire apparatus access roads, fire department access to buildings, water supplies for fire protection, installation and maintenance of fire-protection systems and clearance of brush and vegetative growth from roadways.

Consideration was also given to Section 23.7.105 Administrative Rules of Montana, which is adopted pursuant to authority of 50-3-102 (2) and 50-3-103, MCA, which incorporates by reference the UFC (Uniform Fire Code) and establishes a minimum fire prevention code for Montana.

Every effort has been made to use words and phrases consistent with the definitions given them in the above mentioned publications.

The Fire Department requires that all roads and bridges meet or exceed and are maintained to the requirements of the Uniform Fire Code (UFC) section 902, which reads in part:

902.2.1 Required access. Fire apparatus roads shall be provided in accordance with Sections 901 and 902.2 for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet (45720 mm) from fire apparatus access as measured by an approved route around the exterior of the building or facility....

EXCEPTIONS: 1. When buildings are completely protected with an approved automatic sprinkler system, the provisions of Sections 902.2.1 and 902.2.2 may be modified by the chief.

902.2.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096mm) and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115mm)....

902.2.2.2 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

902.2.2.6 Grade. The gradient for a fire apparatus access road shall not exceed the maximum approved by the chief. { The chief accepts the Resolution approved by the Board of County Commissioner of Ravalli County. The Resolution sets the maximum acceptable road grade for acceptance for a road by the County for dedication and maintenance at six percent (6%). }

While not all parts of the UFC section 902 are listed above, it is the responsibility of the Subdivision developer to construct and maintain all fire apparatus access roads to comply with all aspects of the UFC and Ravalli County Standards.

The fire district requires that all lots (premises) meet the requirements of UFC 901.4.4 as soon as construction begins with a temporary or permanent address posted at the premises driveway and upon occupancy with a permanent address posted in accordance with the above UFC.

WATER SUPPLY REQUIREMENTS:

The water supply required by the Uniform Fire Code for one and two family dwellings, not exceeding 3600 square feet, requires a flow rate of 1000 G.P.M. The code does not specify the duration of flow for one and two family dwellings, however the Fire Protection Guild lines for Wildland Residential Interface Development and the Ravalli County Subdivision Regulations list the minimum water supply of 2500 gallons per lot.

The Three Mile Fire District currently has an ISO Class 6 Residential rating which requires a water flow of 200 gallons per minute for a duration of 20 minutes or a total flow of 4000 gallons per residence.

Considering the above information the Fire District will accept a water supply of 1000 gallons per minute or 2500 gallons per lot of stored water. The water supply installation, upkeep and maintenance will be the responsibility of the Subdivision.

The Fire District realizes the financial burden of installing and maintaining a water supply and or storage tanks capable of providing the required water flows and is willing to accept a payment of \$ 500.00 (Five Hundred dollars and no/100) per lot, in lieu of the water supply required by the UFC. The Fire District will then upon its elective purchase fire fighting apparatus or develop water supplies.

EXCEPTIONS: 1. When buildings are completely protected with an approved automatic sprinkler system, the above listed water supply and payment schedule may be reduced by 50%. The Subdivision Covenants must state that A All residences constructed within the subdivision be completely protected with an approved automatic sprinkler system .@ Payment for the reduced amount of \$ 250.00 per lot will be accepted at the time the Subdivision is approved. If at any time any residence is built without an approved sprinkler system within the subdivision, all lots will be subject to an additional \$ 250.00 dollar payment, regardless whether they have sprinklered residences located on them or not.

If you have any questions regarding the above listed requirements, please feel free to contact me at (406) 777-2749. I am willing to meet with you on your proposed site to review the above requirements or discuss life safety issues.

Sincerely,

Russel R. Giese
Three Mile Fire District Chief

EXHIBIT A-2

Ben Howell

From: David Ohnstad
Sent: Tuesday, February 21, 2006 8:25 AM
To: Ben Howell
Subject: sunnyside orchards #3

Ben -

Regarding the Request for Public Comment on the Sunnyside Orchards #3, Block 12, Lot 32 AP subdivision proposal, Variance Request; the Road & Bridge Department does not support the requested variance. Ambrose Creek Road has a functional classification of Minor Collector. Below is the section (emphasis added) of the access management section of the adopted Access Encroachment Policy relative to Minor Collector roadways. We find no justification, beyond convenience, for this variance and would oppose granting the request. Also not that Ambrose Creek Road has a sub-standard easement width. The approval of any development along this road should be conditioned with the grant from the property owner of the easement necessary to bring the highway to a sixty foot width.

B) MINOR COLLECTOR ROADWAYS

PRIVATE DIRECT ACCESS

No more than one access shall be permitted or provided to an individual parcel, or contiguous parcels under the same ownership, unless it is demonstrated that 1) the additional access would not compromise the safety of county roadway users or the operation of the county roadway, 2) allowing only one access for the parcel would conflict with established local safety regulations, and 3) that the additional access would not be detrimental to the public health and safety.

SEPARATION OF ACCESSES

All private accesses, intersecting public roadways and other direct access to minor collector county roadways shall be separated by a minimum of **300** feet.

David

DAVID H. OHNSTAD
COUNTY ROAD SUPERVISOR
RAVALLI COUNTY, MONTANA
(406) 363 - 2733